

SECOND REGULAR SESSION

SENATE BILL NO. 682

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WILSON.

Pre-filed December 1, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

3452S.01I

AN ACT

To repeal section 99.1205, RSMo, and to enact in lieu thereof one new section relating to the land assemblage tax credit program.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 99.1205, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 99.1205, to read as follows:

99.1205. 1. This section shall be known and may be cited as the
2 "Distressed Areas Land Assemblage Tax Credit Act".

3 2. As used in this section, the following terms mean:

4 (1) "Acquisition costs", the purchase price for the eligible parcel, costs of
5 environmental assessments, closing costs, real estate brokerage fees, reasonable
6 demolition costs of vacant structures, and reasonable maintenance costs incurred
7 to maintain an acquired eligible parcel for a period of five years after the
8 acquisition of such eligible parcel. Acquisition costs shall not include costs for
9 title insurance and survey, attorney's fees, relocation costs, fines, or bills from a
10 municipality;

11 (2) "Applicant", any person, firm, partnership, trust, limited liability
12 company, or corporation which has:

13 (a) Incurred, within an eligible project area, acquisition costs for the
14 acquisition of land sufficient to satisfy the requirements under subdivision (8) of
15 this subsection; and

16 (b) Been appointed or selected, pursuant to a redevelopment agreement
17 by a municipal authority, as a redeveloper or similar designation, under an
18 economic incentive law, to redevelop an urban renewal area or a redevelopment
19 area that includes all of an eligible project area or whose redevelopment plan or

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 redevelopment area, which encompasses all of an eligible project area, has been
21 approved or adopted under an economic incentive law. In addition to being
22 designated the redeveloper, the applicant shall have been designated to receive
23 economic incentives only after the municipal authority has considered the amount
24 of the tax credits in adopting such economic incentives as provided in subsection
25 8 of this section. The redevelopment agreement shall provide that:

26 a. The funds generated through the use or sale of the tax credits issued
27 under this section shall be used to redevelop the eligible project area;

28 b. No more than seventy-five percent of the urban renewal area identified
29 in the urban renewal plan or the redevelopment area identified in the
30 redevelopment plan may be redeveloped by the applicant; and

31 c. The remainder of the urban renewal area or the redevelopment area
32 shall be redeveloped by co-redevelopers or redevelopers to whom the applicant
33 has assigned its redevelopment rights and obligations under the urban renewal
34 plan or the redevelopment plan;

35 (3) "Certificate", a tax credit certificate issued under this section;

36 (4) "Condemnation proceedings", any action taken by, or on behalf of, an
37 applicant to initiate an action in a court of competent jurisdiction to use the
38 power of eminent domain to acquire a parcel within the eligible project
39 area. Condemnation proceedings shall include any and all actions taken after the
40 submission of a notice of intended acquisition to an owner of a parcel within the
41 eligible project area by a municipal authority or any other person or entity under
42 section 523.250, RSMo;

43 (5) "Department", the Missouri department of economic development;

44 (6) "Economic incentive laws", any provision of Missouri law pursuant to
45 which economic incentives are provided to redevelopers of a parcel or parcels to
46 redevelop the land, such as tax abatement or payments in lieu of taxes, or
47 redevelopment plans or redevelopment projects approved or adopted which
48 include the use of economic incentives to redevelop the land. Economic incentive
49 laws include, but are not limited to, the land clearance for redevelopment
50 authority law under sections 99.300 to 99.660, the real property tax increment
51 allocation redevelopment act under sections 99.800 to 99.865, the Missouri
52 downtown and rural economic stimulus act under sections 99.915 to 99.1060, and
53 the downtown revitalization preservation program under sections 99.1080 to
54 99.1092;

55 (7) "Eligible parcel", a parcel:

- 56 (a) Which is located within an eligible project area;
- 57 (b) Which is to be redeveloped;
- 58 (c) On which the applicant has not commenced construction prior to
59 November 28, 2007;
- 60 (d) Which has been acquired without the commencement of any
61 condemnation proceedings with respect to such parcel brought by or on behalf of
62 the applicant. Any parcel acquired by the applicant from a municipal authority
63 shall not constitute an eligible parcel; and
- 64 (e) On which all outstanding taxes, fines, and bills levied by municipal
65 governments that were levied by the municipality during the time period that the
66 applicant held title to the eligible parcel have been paid in full;
- 67 (8) "Eligible project area", an area which shall have satisfied the following
68 requirements:
- 69 (a) The eligible project area shall consist of at least **[seventy-five] forty**
70 acres and may include parcels within its boundaries that do not constitute an
71 eligible parcel;
- 72 (b) At least eighty percent of the eligible project area shall be located
73 within a Missouri qualified census tract area, as designated by the United States
74 Department of Housing and Urban Development under 26 U.S.C. Section 42, or
75 within a distressed community as that term is defined in section 135.530, RSMo;
- 76 (c) The eligible parcels acquired by the applicant within the eligible
77 project area shall total at least **[fifty] thirty** acres, which may consist of
78 contiguous and noncontiguous parcels;
- 79 (d) The average number of parcels per acre in an eligible project area
80 shall be four or more;
- 81 (e) Less than five percent of the acreage within the boundaries of the
82 eligible project area shall consist of owner-occupied residences which the
83 applicant has identified for acquisition under the urban renewal plan or the
84 redevelopment plan pursuant to which the applicant was appointed or selected
85 as the redeveloper or by which the person or entity was qualified as an applicant
86 under this section on the date of the approval or adoption of such plan;
- 87 (9) "Interest costs", interest, loan fees, and closing costs. Interest costs
88 shall not include attorney's fees;
- 89 (10) "Maintenance costs", costs of boarding up and securing vacant
90 structures, costs of removing trash, and costs of cutting grass and weeds;
- 91 (11) "Municipal authority", any city, town, village, county, public body

92 corporate and politic, political subdivision, or land trust of this state established
93 and authorized to own land within the state;

94 (12) "Municipality", any city, town, village, or county;

95 (13) "Parcel", a single lot or tract of land, and the improvements thereon,
96 owned by, or recorded as the property of, one or more persons or entities;

97 (14) "Redeveloped", the process of undertaking and carrying out a
98 redevelopment plan or urban renewal plan pursuant to which the conditions
99 which provided the basis for an eligible project area to be included in a
100 redevelopment plan or urban renewal plan are to be reduced or eliminated by
101 redevelopment or rehabilitation; and

102 (15) "Redevelopment agreement", the redevelopment agreement or similar
103 agreement into which the applicant entered with a municipal authority and which
104 is the agreement for the implementation of the urban renewal plan or
105 redevelopment plan pursuant to which the applicant was appointed or selected
106 as the redeveloper or by which the person or entity was qualified as an applicant
107 under this section; and such appointment or selection shall have been approved
108 by an ordinance of the governing body of the municipality, or municipalities, or
109 in the case of any city not within a county, the board of aldermen, in which the
110 eligible project area is located. The redevelopment agreement shall include a
111 time line for redevelopment of the eligible project area. The redevelopment
112 agreement shall state that the named developer shall be subject to the provisions
113 of chapter 290, RSMo.

114 3. Any applicant shall be entitled to a tax credit against the taxes
115 imposed under chapters 143, 147, and 148, RSMo, except for sections 143.191 to
116 143.265, RSMo, in an amount equal to fifty percent of the acquisition costs, and
117 one hundred percent of the interest costs incurred for a period of five years after
118 the acquisition of an eligible parcel. No tax credits shall be issued under this
119 section until after January 1, 2008.

120 4. If the amount of such tax credit exceeds the total tax liability for the
121 year in which the applicant is entitled to receive a tax credit, the amount that
122 exceeds the state tax liability may be carried forward for credit against the taxes
123 imposed under chapters 143, 147, and 148, RSMo, for the succeeding six years,
124 or until the full credit is used, whichever occurs first. The applicant shall not be
125 entitled to a tax credit for taxes imposed under sections 143.191 to 143.265,
126 RSMo. Applicants entitled to receive such tax credits may transfer, sell, or assign
127 the tax credits. Tax credits granted to a partnership, a limited liability company

128 taxed as a partnership, or multiple owners of property shall be passed through
129 to the partners, members, or owners respectively pro rata or pursuant to an
130 executed agreement among the partners, members, or owners documenting an
131 alternate distribution method.

132 5. A purchaser, transferee, or assignee of the tax credits authorized under
133 this section may use acquired tax credits to offset up to one hundred percent of
134 the tax liabilities otherwise imposed under chapters 143, 147, and 148, RSMo,
135 except for sections 143.191 to 143.265, RSMo. A seller, transferor, or assignor
136 shall perfect such transfer by notifying the department in writing within thirty
137 calendar days following the effective date of the transfer and shall provide any
138 information as may be required by the department to administer and carry out
139 the provisions of this section.

140 6. To claim tax credits authorized under this section, an applicant shall
141 submit to the department an application for a certificate. An applicant shall
142 identify the boundaries of the eligible project area in the application. The
143 department shall verify that the applicant has submitted a valid application in
144 the form and format required by the department. The department shall verify
145 that the municipal authority held the requisite hearings and gave the requisite
146 notices for such hearings in accordance with the applicable economic incentive
147 act, and municipal ordinances. On an annual basis, an applicant may file for the
148 tax credit for the acquisition costs, and for the tax credit for the interest costs,
149 subject to the limitations of this section. If an applicant applying for the tax
150 credit meets the criteria required under this section, the department shall issue
151 a certificate in the appropriate amount. If an applicant receives a tax credit for
152 maintenance costs as a part of the applicant's acquisition costs, the department
153 shall post on its Internet web site the amount and type of maintenance costs and
154 a description of the redevelopment project for which the applicant received a tax
155 credit within thirty days after the department issues the certificate to the
156 applicant.

157 7. The total aggregate amount of tax credits authorized under this section
158 shall not exceed ninety-five million dollars. At no time shall the annual amount
159 of the tax credits issued under this section exceed twenty million dollars. If the
160 tax credits that are to be issued under this section exceed, in any year, the twenty
161 million dollar limitation, the department shall either:

162 (1) Issue tax credits to the applicant in the amount of twenty million
163 dollars, if there is only one applicant entitled to receive tax credits in that year;

164 or

165 (2) Issue the tax credits on a pro rata basis to all applicants entitled to
166 receive tax credits in that year. Any amount of tax credits, which an applicant
167 is, or applicants are, entitled to receive on an annual basis and are not issued due
168 to the twenty million dollar limitation, shall be carried forward for the benefit of
169 the applicant or applicants to subsequent years. No tax credits provided under
170 this section shall be authorized after August 28, 2013. Any tax credits which
171 have been authorized on or before August 28, 2013, but not issued, may be issued,
172 subject to the limitations provided under this subsection, until all such
173 authorized tax credits have been issued.

174 8. Upon issuance of any tax credits pursuant to this section, the
175 department shall report to the municipal authority the applicant's name and
176 address, the parcel numbers of the eligible parcels for which the tax credits were
177 issued, the itemized acquisition costs and interest costs for which tax credits were
178 issued, and the total value of the tax credits issued. The municipal authority and
179 the state shall not consider the amount of the tax credits as an applicant's cost,
180 but shall include the tax credits in any sources and uses and cost benefit analysis
181 reviewed or created for the purpose of awarding other economic incentives. The
182 amount of the tax credits shall not be considered an applicant's cost in the
183 evaluation of the amount of any award of any other economic incentives, but shall
184 be considered in measuring the reasonableness of the rate of return to the
185 applicant with respect to such award of other economic incentives. The municipal
186 authority shall provide the report to any relevant commission, board, or entity
187 responsible for the evaluation and recommendation or approval of other economic
188 incentives to assist in the redevelopment of the eligible project area. Tax credits
189 authorized under this section shall constitute redevelopment tax credits, as such
190 term is defined under section 135.800 RSMo, and shall be subject to all provisions
191 applicable to redevelopment tax credits provided under sections 135.800 to
192 135.830 RSMo.

193 9. The department may promulgate rules to implement the provisions of
194 this section. Any rule or portion of a rule, as that term is defined in section
195 536.010, RSMo, that is created under the authority delegated in this section shall
196 become effective only if it complies with and is subject to all of the provisions of
197 chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and
198 chapter 536, RSMo, are nonseverable and if any of the powers vested with the
199 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective

200 date, or to disapprove and annul a rule are subsequently held unconstitutional,
201 then the grant of rulemaking authority and any rule proposed or adopted after
202 August 28, 2007, shall be invalid and void.

✓

Unofficial

Bill

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